

### **REMARKS/ARGUMENTS**

Claim 12 is now pending in this application. Claim 12 is an Independent Claim. Claims 1-11, 13-17 and 27-32 have been cancelled. Claims 18-26 have been withdrawn.

#### ***Claim Rejections – 35 USC § 103***

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Pate et al., United States Patent Number 6,754,605 (hereinafter: Pate). (Pending Office Action, Page 2). Applicant respectfully traverses the rejection.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). “If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious.” (emphasis added) *In re Fine*, 837 F. 2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988). Applicant respectfully submits that the claim rejected under this section includes elements that have not been disclosed, taught or suggested by the reference cited by the Patent Office, and that it would not have been obvious to one of ordinary skill in the art at the time of the present invention to modify the reference to arrive at the claimed elements.

The Patent Office concedes that the cited reference (i.e., Pate) fails to disclose or suggest the method steps of the present application. (Pending Office Action, Page 3). However, the Patent Office argues that the system of the cited reference (i.e., Pate) is capable of performing all of the method steps claimed in the present application, therefore, it would have been obvious to employ the system of Pate to perform said method steps claimed in the present application. (Pending Office Action, Page 3). Applicant respectfully disagrees. Pate discloses a system which may be used at a manufacturing site for automating testing of products (ex. - data storage array components) which are on a queue/assembly line. (Pate, Abstract, FIG. 2). In contrast,

the claimed invention of the present application discloses a method for allowing a party, such as a customer or purchaser of a product to a.) track a physical location of that product after the product has been sent from the manufacturer and as it is en route to the customer; b.) to place the product into the customer's inventory once said product is received from the manufacturer; and c.) to communicate a location of the product and also to communicate a hardware/software configuration of the product to a manufacturer from the customer location. (Present Application, Page 7, Paragraph 0021). Basically, the claimed invention of the present application claims a method by which product information may be communicated from a customer location to a remotely located manufacturer via a remote monitoring system utilizing an EDI (electronic data interchange) and an RF tag. (Present Application, Page 7, Paragraph 0021). As the Patent Office has conceded Pate does not disclose or suggest the method of the present application. (Pending Office Action, Page 3). Further, Applicant offers that the claimed invention of the present application would not have been obvious in view of Pate, which describes a system/method which may be used at a manufacturing site for automating testing of products (ex. - data storage array components) which are on a queue/assembly line. (Pate, Abstract, FIG. 2).

Based on the above rationale, the Patent Office has failed to make a *prima facie* case of obviousness against Independent Claim 12. Thus, Independent Claim 12 should be allowed over the prior art of record.

### **CONCLUSION**


In light of the forgoing, reconsideration and allowance of the pending claims is earnestly solicited.

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Respectfully submitted on behalf of

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